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UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

| | |
|---|---|
| TYCO HEALTHCARE GROUP LP d/b/a VNUS MEDICAL TECHNOLOGIES, <br><br> Plaintiff, <br><br> v. <br><br> BIOLITEC, INC. and NEW STAR LASERS, INC. d/b/a COOLTOUCH, INC., <br><br> Defendants. | LEAD CASE NO. C08-03129 MMC <br><br> CASE NO. C08-03129 MMC <br><br><br> **[PROPOSED] ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS' MOTION FOR ADMINISTRATIVE RELIEF TO FILE DOCUMENTS UNDER SEAL (D.I. 265)** <br><br> **[CIVIL L.R. 7-11, 79-5]** |
| TYCO HEALTHCARE GROUP LP d/b/a VNUS MEDICAL TECHNOLOGIES, <br><br> Plaintiff, <br><br> v. <br><br> TOTAL VEIN SOLUTIONS, LLC d/b/a TOTAL VEIN SYSTEMS, <br><br> Defendant. | CASE NO. C08-04234 MMC (consolidated with C08-3129 MMC) |

[PROPOSED] ORDER GRANTING DEFENDANTS' MOTION FOR ADMINISTRATIVE RELIEF TO FILE DOCUMENTS UNDER SEAL
CASE NOS. C08-03129 MMC & C08-04234 MMC

1    Before the Court is the Defendants' Motion for Administrative Relief to File Documents

2    Under Seal dated August 30, 2010, by which Defendants seek leave to file under seal unredacted

3    versions of certain documents submitted in support of a Motion in Limine (1) to Preclude VNUS

4    from Introducing Settlement Agreements or Related Evidence; (2) to Preclude VNUS from Relying

5    on Evidence Related to 510(k) Statements of Substantial Equivalence; (3) to preclude Reference to

6    Defendants as a Group; (4) to Preclude VNUS from Referring to Unclaimed Functions of

7    Tumescent Anesthesia; and (5) to Preclude Julie Davis from Testifying as to Impermissible Reply

8    Opinions (collectively "Defendants' Motions in Limine").  Having reviewed the parties'

9    submissions filed in support of the motion, the Court rules as follows:

10    1.    The motion is GRANTED in part, specifically, as to the following documents that

11    plaintiff has shown contain material properly filed under seal (see Kertz Decl., filed September 2,

12    2010), each of which the requesting party is directed to file, ~~under seal:~~   no later than September 14,
             2010, under seal:

13

14    • Exhibits 1 (bates-stamped pages VNUS_150328-29, VNUS_150331,
15        VNUS_150336, VNUS_150338-41, VNUS_150348), 5, 6 (pages 27, 30, 34-35, 45,
          55) 10, 13, 15 (pages 7-10), 19 (bates-stamped pages VNUS_144136-140), 20, 28,
16        and 29 (pages 13, 15-16, 28) to the Declaration of Charles T. Steenburg in Support
          of Defendants' Motions in Limine Numbers 1 through 6

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18    • Redacted pages 2 (lns. 11-13, 16, 24-26, 29), 3 (lns. 1-4, 9-10, 27), and 6 (ln. 15) of
        Defendants' Motion in Limine No. 1, filed on August 30, 2010

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20    • Redacted page 3 (lns. 1-9) of Defendants' Motion in Limine No. 3, filed on August
        30, 2010

21    • Redacted page 2 (lns. 1-5, 25-28) of Defendants' Motion in Limine No. 4, filed on
        August 30, 2010
22

23    2.    The motion is DENIED in part, specifically, as to the following documents, in light

24    of plaintiff's having withdrawn its prior designation of confidentiality, each of which the requesting

25    party is directed to file in the public record no later than ~~five calendar days from the date of this~~

26    ~~order:~~   September 14, 2010:
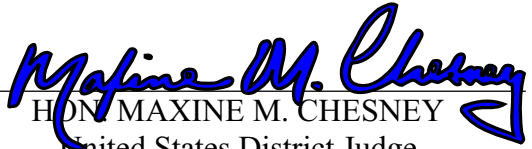
27    • Exhibits 8, 9, 18, and 27 to the Declaration of Charles T. Steenburg in Support of
        Defendants' Motions in Limine Numbers 1 through 6
28

1      • Designated portions of Defendants' Motions in Limine not identified above, and
2        any portion of Exhibits 1, 6, 15, 19, and 29 not identified above.

3      3.    The motion is DENIED in part, specifically, as to Exhibit 12, in light of Dornier
4            Medtech America, Inc.'s having not filed a responsive declaration.  See Civil Local
             Rule 79-5(d).  The requesting party shall file said exhibit in the public record no later
5            than September 14, 2010.

6    IT IS SO ORDERED.

7    Dated: __September 10__ 2010

8                                                         _____
                                                         HON. MAXINE M. CHESNEY
9                                                         United States District Judge

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